

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 300

REG-148576-05

RIN 1545-BF69

User Fees for Processing Installment Agreements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed amendments to the regulations relating to user fees for installment agreements. The proposed amendments affect taxpayers who wish to pay their liabilities through installment agreements. This document also contains a notice of public hearing on these proposed regulations.

DATES: Written and electronic comments must be received by September 29, 2006.

Outlines of topics to be discussed at the public hearing scheduled for October 17, 2006, must be received by September 25, 2006.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-148576-05), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044.

Alternatively, taxpayers may send submissions electronically directly to the IRS Internet site at www.irs.gov/regs, or via the Federal e-Rulemaking Portal at www.regulations.gov (IRS REG-148576-05). The public hearing will be held in the auditorium of the New Carrollton Federal Building, 5000 Ellin Road, Lanham, MD.

FOR FURTHER INFORMATION CONTACT: Concerning submissions and/or to be placed

on the building access list to attend the hearing, Kelly Banks, 202-622-7180; concerning cost methodology, Eva Williams, 202-435-5514; concerning the proposed regulations, William Beard, 202-622-3620 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Independent Offices Appropriations Act (IOAA), which is codified at 31 U.S.C. 9701, authorizes agencies to prescribe regulations that establish charges for services provided by the agency (user fees). The charges must be fair and must be based on the costs to the government, the value of the service to the recipient, the public policy or interest served, and other relevant facts. The IOAA provides that regulations implementing user fees are subject to policies prescribed by the President. Those policies are currently set forth in OMB Circular A-25, 58 FR 38142 (July 15, 1993) (the OMB Circular).

The OMB Circular encourages user fees for government-provided services that confer benefits on identifiable recipients over and above those benefits received by the general public. Under the OMB Circular, an agency that seeks to impose a user fee for government-provided services must calculate its full cost of providing those services. In general, the amount of a user fee should recover the cost of providing the service, unless the Office of Management and Budget (OMB) grants an exception.

Section 6159 authorizes the IRS to enter into an agreement with any taxpayer for the payment of tax in installments. Section 6331(k) generally prohibits the IRS from levying to collect taxes while an installment agreement in effect. A taxpayer that enters into an installment agreement therefore receives a special benefit of being allowed to pay an

outstanding tax obligation over time. Before entering into an installment agreement, the IRS must examine the taxpayer's financial position to determine whether such an agreement is appropriate. Once the agreement is in effect, the IRS must process the payments and monitor compliance.

Under sections 300.1 and 300.2, the IRS currently charges \$43 for entering into an installment agreement and \$24 for restructuring an installment agreement or reinstating an installment agreement that is in default. The amount of the fees has not changed since the fees were first implemented in 1995. As required by the OMB Circular, the IRS recently completed a review of the installment agreement program and determined that the full cost of an installment agreement is \$105. The IRS also determined that the full cost of restructuring or reinstating an installment agreement is \$45. The higher costs associated with installment agreements result from increases in labor and other costs since 1995 and refinements in the costing model to better account for the full cost of an installment agreement. In accordance with the OMB Circular, these proposed regulations increase the fees to bring them in line with actual costs.

These proposed regulations propose to charge less than full cost for entering into an installment agreement in cases where the taxpayer chooses to pay by way of a direct debit from the taxpayer's bank account. The proposed fee for such an installment agreement is \$52. The reduced fee would only apply to new installment agreements; the charge would still be \$45 for restructuring or reinstating an installment agreement, regardless of the method of payment. While the OMB Circular requires agencies to charge full cost, OMB has granted an exception to the full cost requirement of the OMB Circular for

direct debit installment agreements. In addition, the IRS believes that charging less than full cost will encourage taxpayers to choose to pay by direct debit. The IRS has determined that the default rate on direct debit installment agreements is much lower than that for other agreements. These agreements are therefore beneficial both to taxpayers and to tax collection.

Proposed Effective Date

These regulations are proposed to be effective thirty days after the date of publication in the **Federal Register** of the final regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This certification is based on the information that follows. The economic impact of these regulations on any small entity would result from the entity being required to pay a fee prescribed by these regulations in order to obtain a particular service. The dollar amount of the fee is not, however, substantial enough to have a significant economic impact on any entity subject to the fee. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for October 17, 2006, at 10:00 a.m. in the auditorium of the New Carrollton Federal Building, 5000 Ellin Rd., Lanham, MD. Due to building security procedures, visitors must enter at the main entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the “FOR FURTHER INFORMATION CONTACT” section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the comments to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by Monday, September 25, 2006. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is William Beard, Office of Associate Chief

Counsel (Procedure and Administration), Collection, Bankruptcy and Summonses Division.

Lists of Subjects in 26 CFR Part 300

Reporting and recordkeeping requirements, User fees.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 300 is proposed to be amended as follows:

PART 300--USER FEES

Paragraph 1. The authority citation for part 300 continues to read as follows:

Authority: 31 U.S.C. 9701.

Par. 2. Section 300.1(b) is amended by adding a sentence to the end of the paragraph to read as follows:

' 300.1 Installment agreement fee.

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(b) * * * Effective January 1, 2007, the fee for entering into an installment agreement is \$105, except that the fee is \$52 when the taxpayer pays by way of a direct debit from the taxpayer's bank account..

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Par. 3. Section 300.2(b) is amended by adding a sentence to the end of the paragraph to read as follows:

' 300.2 Restructuring or reinstatement of installment agreement fee.

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(b) * * * Effective January 1, 2007, the fee for restructuring or reinstating an installment agreement is \$45.

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Deputy Commissioner for Services and Enforcement.